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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,568	02/12/2004	Wayne Douglas Trantow	1628-3664	6007
20575 7590 12/13/2007 MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER COLLINS, DOLORES R	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

11

Office Action Summary	Application No.		Applicant(s)	
	10/777,568		TRANTOW, WAYNE DOUGLAS	
	Examiner		Art Unit	
	Dolores R. Collins		3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 24-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/22/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's election without traverse of Group II, Claims 11 - 23 in the reply filed on 9/5/07 is acknowledged.

Claims 1-10 & 24-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/5/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gabriel (975).

Gabriel discloses a Construction Set Having Clip Fasteners.

Gabriel teaches all the limitations of claim 1.

2. Claim 11 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chen (411).

Chen discloses a Self-Assembled Spherical Joint Structure.

Chen teaches all the limitations of claim 1.

3. Claims 11-23 are rejected under 35 U.S.C. 102(b) as anticipated by Brumlik (349).

Brumlik discloses Framework Molecular Orbital Model Assembly.

Regarding claims 11-16, 18-20 & 22-23

Brumlik teaches all the limitations of these claims.

Regarding claim 17

Brumlik teaches in fig. 4, a tubular shaft that may be cut to a selected length while preserving the ability to receive end tabs.

Regarding claim 21

Brumlik teaches in fig. 4 a node pin with an outer diameter (see (44)) and a second lesser diameter (see (42)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ochrymowich (011).

Ochrymowich discloses Deformable Tubular Rods With Deformable Sheet Material Connectors.

Regarding claims 11-16, 18-20 & 22-23

Ochrymowich teaches all the limitations of these claims

Regarding claim 17

Ochrymowich teaches tubular struts with predetermined inner diameter (in other words, hollow) (see fig. 18 and col. 3, lines 57-64).

Regarding claim 21

Ochrymowich fails to explicitly teach pins with first outer diameter and a second lesser outer diameter. Applicant has however failed to demonstrate criticality of such. It would have been an obvious matter of design choice to make different portions of the pin of whatever relative sizes desired, since a modification would have involved a mere change in the proportions of components. A change in proportion is generally recognized as being within the level of ordinary skill in the art. *In re Reese*, 129 USPQ 402.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(571) 272-4421**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Eugene Kim*** can be reached on **(571) 272-4463**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call **800-786-9199** (IN USA OR CANADA) or **571-272-1000**.


***12/4/07


EUGENE KIM
SUPERVISORY PATENT EXAMINER